



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Rolf STEFANI et al.

Group Art Unit: 2686

Application No.: 10/642,627

Examiner: S. Khan

Filed: August 19, 2003

Docket No.: 113391

For: SECURITY MESSENGER SYSTEM

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

A Notice of Appeal and a Petition for Extension of Time are attached. Applicants respectfully request review of the Final Rejection mailed November 11, 2005 in the above-identified application.

An Advisory Action mailed February 7, 2006 indicates that Applicants' Request for Reconsideration After Final Rejection ("Request"), filed on January 11, 2006, has been considered, but is not deemed to place the application in condition for allowance. Claims 1, 3-20 and 22-30 are pending in this application. All of the pending claims are rejected. This review is requested for the following reasons.

Claims 1, 3-6, 8-12, 19, 20, 22-24, 27 and 28 under 35 U.S.C. §103(a) over U.S. Patent Application Publication No. 2003/0003872 to Brinkley et al. (hereinafter "Brinkley") in view of International Patent Publication No. WO 01/03437 (hereinafter "WO '437" referred to as Albanesi in the Office Action). The Office Action, in paragraph 3, rejects claims 7, 13-17, 29 and 30 under 35 U.S.C. §103(a) as being unpatentable over Brinkley in view of WO '437 and further in view of U.S. Patent No. 6,393,297 to Song.

I. Brinkley Does Not Teach The Combination Of All Of The Features That The Office Action Alleges

Brinkley is intended to overcome a shortfall in the ability of prior art hard-wired devices to upload and download the volume of data that may be required to periodically update flight management computers (see paragraph [0003]), or to download aircraft data into avionics line replaceable units for post-flight review of the data (see paragraph [0013]). Brinkley provides a method for wirelessly communicating download data between an avionics unit and a data communication apparatus via the aircraft data services link (see paragraph [0016]). As such, Brinkley is limited to applications regarding the upload and download of avionics and/or flight performance data. Brinkley states "data transferred to and from the disclosed data communication apparatus includes software uploads and downloads, flight performance data, and applications for use by flight crew, cabin crew, maintenance crew, airport grounds service and airline operations" (paragraph [0029]). In all disclosed embodiments, the avionics unit is the transceiver at one end of the disclosed communication link. The avionics unit in Brinkley does not transfer information received from one data communication apparatus, whether located on the aircraft or not, to another data communication apparatus.

Claim 1 recites, among other features, wherein a user employs the at least one portable control and display unit to transmit messages to and receive messages from a remote operations center via the ACARS transceiver communicating through a VHF radio onboard the aircraft. Brinkley specifically does not disclose, nor can it reasonably be read to suggest, transmitting messages from a portable display and control unit to a remote operations center via the ACARS transceiver and a VHF radio onboard the aircraft. Brinkley's disclosure of IEEE 802.11 communication cannot reasonably be considered to suggest the above-quoted combination of features, as recited in independent claim 1. The Advisory Action seems to imply simply because Brinkley discloses an ACARS and mentions a portable device that the reference can be read to

anticipate the above features. This is simply an incorrect conclusion based on the disclosure of Brinkley.

II. WO '437 Does Not Overcome Any Shortfall In The Application Of Brinkley To The Subject Matter Of The Pending Claims

WO '437 teaches a wireless observation system for aircraft using a video apparatus mounted on the aircraft to capture images and transmit images to the cockpit for use in observing parts of the aircraft that cannot be seen from the cockpit (Abstract). The disclosed system is intended to replace a third cockpit crew member who is no longer available to move about the aircraft to investigate difficulties and/or aircraft conditions (page 1, lines 11-15). WO '437 makes no provision for "other" transmission of the video data to, for example, any remote receiving node such as a remote operation center. Nor is there any suggestion in WO'437 that the disclosed observation capability should be in any way employed for other-than-local and/or other-than-real-time on aircraft observation.

Brinkley and WO '437 are not combinable in the manner suggested by the Office Action for at least the following reason. The Office Action appears to rely on improper hindsight reasoning based on Applicants' disclosure in attempting to find the subject matter recited in at least independent claims 1 and 20 obvious in view of the prior art. There is simply no motivation in the avionics data upload and download device taught by Brinkley to include a capability for real-time video observation of portions of an aircraft that are not directly observable from the cockpit with a device such as that taught by WO '437. Further, one of ordinary skill in the art given the teachings of Brinkley and WO '437 would not have been motivated to make the asserted combination in attempting to facilitate communication-data, voice and/or video communication-from law enforcement personnel deployed upon commercial aircraft to a remote operation center, an objective of the subject matter of the pending claims.

Any permissible combination of the references does not render obvious the following features recited in the enumerated claims. In addition to the argument regarding claim 1 above, several other features recited in dependent claims are neither taught nor suggested. Claim 3 recites that the at least one portable control and display unit is configured to transmit the messages from the aircraft while in flight. Claim 4 recites the messages comprise voice communication. Claim 6 recites the messages comprise video communication comprising at least one of a real-time video stream or single frames of video image. Claim 9 recites that the at least one portable control and display unit onboard the aircraft is configured to function as a cellular telephone. Claim 10 recites that the system further comprises a SATCOM radio. Claim 18 recites at least one panic button located at least one of in or on the aircraft and configured to alert the system of a threat condition. Claim 22 recites that the portable control and display unit can send and receive messages from another portable control and display unit onboard the aircraft. Claim 23 recites the portable control and display unit sending and receiving positional information concerning the location of the aircraft. Claim 24 recites the positional information further comprising data regarding other aircraft in the vicinity. At least these features, as are variously recited in the enumerated claims, are not suggested by any permissible combination of Brinkley and WO '437. There is nothing in this combination of references to suggest the use of a portable device such as, for example, the recited at least one portable control and display unit, to accomplish any of the above-enumerated functions in the manner specifically and positively recited in the claims. These specific features and the arguments over their obviousness have not been adequately responded to in prosecution of this application to date. The Advisory Action dismisses the bulk of Applicants' arguments.

III. Conclusion

In summary, (1) Brinkley does not teach all of the limitations that the Office Action asserts Brinkley to teach, (2) WO' 437 does not overcome the shortfalls in the application of

Brinkley, and (3) to the extent that Brinkley and WO '437 are combinable, such combination would not have rendered obvious the combinations of all of the features recited in independent claims 1 and 20. Further, any permissible combination of Brinkley and WO '437 cannot reasonably be considered to have suggested the subject matter of claims 3-6, 8-12, 19, 22-24, 27 and 28 for at least the respective dependence of these claims on independent claims 1 and 20, as well as for the separately patentable subject matter that each of these claims recites.

In view of the foregoing, Applicants respectfully submit that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1, 3-20 and 22-30 are earnestly solicited.

Should the Review Panel believe that anything further would be desirable in order to place this application in even better condition for allowance, the Panel is invited to contact Applicants' undersigned representative at the telephone number set forth below.

Respectfully submitted,



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JAO:DAT

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